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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/850,960	05/08/2001	Andrew D. Jackson	US010247	6140

7590

01/31/2003

Philips Electronics
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EXAMINER

PHAN, THANH S

ART UNIT

PAPER NUMBER

2841

DATE MAILED: 01/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

P⁵

Office Action Summary	Application No.	Applicant(s)	
	09/850,960	JACKSON ET AL.	
	Examiner	Art Unit	
	Thanh S Phan	2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 20-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) 10, 15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7, 10</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Election/Restrictions

Claims 20-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claimed method of constructing a discharge lamp, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11.

Claim Objections

Claims 10 and 15 are objected to because of the following informalities: the claim should be in one sentence format; there are inappropriate periods [.] in claim 10, line 3 and claim 15, line 5. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 17-19 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility.

In the instant case, a design space of parameters is not a process, machine, manufacture, or composition of matter.

Claims 17-19 also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Vliet et al. [US 5,973,453] in view of Krasko et al. [US 5,694,002].

Van Vliet et al. disclose a discharge lamp [figures 1 and 2] comprising a ceramic discharge vessel enclosing a discharge space, said discharge vessel including within said discharge space an ionizable material comprising a metal halide, a first and second discharge electrode feedthrough means, and a first and second current conductor connected to said first and second discharge electrode feedthrough means;

said lamp having a power range of about 150W to about 1000w and exhibiting one or more of a characteristic selected from the group consisting of a CCT of about 3800 to about 4500k, a CRI of about 70 to about 95, a MPCD of about ± 10 ; except for a luminous efficacy up to about 85-95 lumens/watts.

Krasko et al. disclose a metal halide lamp with a luminous efficacy about 90 lumens/watts.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Krasko et al.'s teaching with Van Vliet et al.'s for the purpose of improving the color rendition and luminous output.

Claims 3-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Vliet et al. [US 5,973,453] in view of Van Der Leeuw et al. [US 5,532,543].

Van Vliet et al. disclose a discharge lamp having a power range of about 150W to about 1000W and comprising a ceramic discharge vessel enclosing a discharge space, said discharge vessel including within said discharge space an ionizable material comprising a metal halide, a first and second discharge electrode feedthrough means, and a first and second current conductor connected to said first and second discharge electrode feedthrough means;

wherein the ceramic discharge vessel include an arc tube comprising:

a cylindrical barrel having a central axis and a pair of opposed end walls, a pair of ceramic end plugs extending from respective end walls along said axis, a pair of lead-ins extending through respective end plugs, said lead-ins being connected to respective electrodes which are spaced apart in said central barrels, wherein the electrode feedthrough means each have a lead-in of niobium which is hermetically sealed into the arc tube, a central portion of molybdenum/aluminum cermet [figures 1 and 2];

Van Vliet et al. do not disclose wherein the tungsten rod having a winding of tungsten.

Van Der Leeuw et al. disclose a discharge lamp wherein the tungsten rod having a winding of tungsten [figure 2].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Van Der Leeuw et al.'s teachings with Van Vliet al.'s for the purpose of securing the discharge vessel.

Regarding claim 4, Van Der Leeuw et al. further disclose wherein the arc tube has a molybdenum coil attached to its surface [figure 2].

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Van Der Leeuw et al.'s coil with Van Vliet et al.'s lamp for the purpose of securing the discharge vessel.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-19 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of copending Application No. 09/851,443. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious that the lamp claimed would not require the specifics of the molybdenum coil.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mathew et al. [US 5,239,230], Lambrechts et al. [US 6,501,220], Witting [US 4,972,120].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh S Phan whose telephone number is 703-305-0069. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David S Martin can be reached on 703-308-3121. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7722 for regular communications and 703-305-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TSP
January 13, 2003



DAVID MARTIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800